

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE:

Steven M. Marshall
Deshanta O. Marshall

CHAPTER 13
CASE #17-60599

Steven M. Marshall
Deshanta O. Marshall
Movant

v.

Donna Lively
2006 Bent Creek Road
Concord, Va 24538

Defendant

MOTION FOR CONTEMPT FOR VIOLATION OF THE AUTOMATIC STAY

Comes now the debtor Steven M. Marshall and Deshanta O Marshall, by counsel, and states to this court as follows:

1. That your debtor filed for relief under Chapter 13 of the Bankruptcy Code on March 27, 2017.
2. This is a motion pursuant to Bankruptcy Rules 4001 and USC Section 362(d) seeking protection from the automatic stay of 11 U.S.C. Section 362(a).
3. The Court possesses subject matter jurisdiction over this proceeding pursuant to 28 U.S.C. Section 257 and 28 U.S.C.

Section 1334.

4. This is a core proceeding.
5. The Movant is the Debtor in this case and the Chapter 13 plan has been confirmed.
6. That the Defendant and the Debtor's entered into a land sales contract which is undated, whereby the debtor agreed to pay the sum of \$730.74 a month until the sum of \$125,000 is paid at which time the Defendant would convey the deed to the Debtor's. See Exhibit 1
7. That the Debtor's schedules listed the Defendant Donna Lively as a creditor in their Chapter 13 bankruptcy non-priority secured claim for past due house payments in the amount of \$1883.40. The Chapter 13 plan provided that the debtor would make regular house payments beginning in the month of April 2017. See Exhibit 2
8. That on or about May 26, 2017, this court entered an order confirming the Chapter 13 plan. See Exhibit 3
9. That as of the date of the filing of this motion no proof of claim has been filed by the Defendant with this court.
10. That despite receiving notice from the Bankruptcy court and even though the Defendant was made aware of the filing by the Debtors, the Defendant did and has continued to harass the Debtor by phone calls and text.
11. That in spite of the fact that the Debtor informed the Defendant that the arrearages were being paid under the

Chapter 13 plan, the Defendant has continued to harass the Debtors by filing an unlawful detainer against the Debtor's not just seeking possession but also seeking a money judgment for arrearages (according to the unlawful detainer the period is for from July 2016 through July 2017), that were included in the Chapter 13 plan. The debtor has made all post-petition payments through July 31, 2017. See Exhibit 4

12. In addition the Defendant has filed a second Warrant in Detinue for a wood stove that Defendant alleges that the Debtor's disposed of prior to the filing of the Chapter 13 bankruptcy. See Exhibit 5
13. That said action violates the automatic stay imposed by §362 of the Bankruptcy Code.

NOW THEREFORE, the debtor respectfully moves that the court enter an order requiring:

- (a) for a determination that Defendant be found to be in contempt of this court for having violated and disregarded the 362 stay imposed by this court and;
- (b) That the Defendant pay the attorney's fees of \$2500.00 and costs incurred in bringing this action.
- (c) That the court enter an order staying the actions of the Appomattox General District Court from taking any further action and all future actions on the collection of these pre-petition arrearages and for the collection of any monies owed by the Debtor's to the Defendant.

Steven M. Marshall
Deshanta O. Marshall

/s/Stephen E. Dunn, Esq.
OF COUNSEL

STEPHEN E. DUNN, ESQ.
Stephen E. Dunn, PLLC
201 Enterprise Drive, Suite A
Forest, VA 24551

CERTIFICATE OF SERVICE

I, Stephen E. Dunn do hereby certify that a copy of the foregoing Complaint was sent first class mail to the Defendant listed above on this 14th day of August, 2017.

/s/ Stephen E. Dunn
Stephen E. Dunn, Esq.

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NOTICE OF HEARING ON MOTION FOR CONTEMPT FOR VIOLATION OF THE
AUTOMATIC STAY

Please take notice that Stephen E. Dunn counsel for the above-named debtors have filed a motion to for contempt, a true copy of which is attached hereto, and shall submit the same to the Honorable Rebecca Connnelly, Bankruptcy Judge, for a hearing on September 28, 2017 at 9:30 a.m., or as soon thereafter as the parties may be heard. Please plan to attend in order to protect your interest.

I, Stephen E. Dunn, Counsel for the debtors, do hereby certify that a copy of the notice and the Motion has been sent first class mail to the Defendant on the aftermentioned date.

Dated: August 14, 2017

/s/Stephen E. Dunn, Esq.
Counsel for the Debtor

Stephen E. Dunn, Esq.
Counsel for Debtors
201 Enterprise Drive, Suite A
Forest, VA 24551